BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

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| In the Matter of the Application of<br><br>HAWAIIAN ELECTRIC COMPANY, INC.<br>HAWAII ELECTRIC LIGHT COMPANY, INC.<br>MAUI ELECTRIC COMPANY, LIMITED<br><br>For Approval of the Advanced Metering Infrastructure (AMI) Project and Request to Commit Capital Funds, to Defer and Amortize Software Development Costs, to Begin Installation of Meters and Implement Time-of-Use Rates, for Approval of Accounting and Ratemaking Treatment, and Other Matters. | DOCKET NO. 2008-0303 |



**HAWAIIAN ELECTRIC COMPANY, INC., HAWAII ELECTRIC LIGHT COMPANY, INC., AND MAUI ELECTRIC COMPANY, LIMITED'S MEMORANDUM IN OPPOSITION TO THE MOTION FOR INTERVENTION OF HAWAII SOLAR ENERGY ASSOCIATION**

**AND**

**CERTIFICATE OF SERVICE**

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HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), and MAUI ELECTRIC COMPANY, LIMITED ("MECO")[1] respectfully submit this Memorandum in Opposition to the Motion for Intervention of Hawaii Solar Energy Association ("HSEA"), filed February 3, 2009[2] ("Motion").

[1] HECO, HELCO and MECO are collectively referred to as the "HECO Companies" or "Companies".

[2] Hawaii Administrative Rules ("HAR") § 6-61-41(c) states: "An opposing party may serve and file counter affidavits and a written statement of reasons in opposition to the motion and of the authorities relied upon not later than five days after being served the motion . . . ." HAR § 6-61-22 states: ". . . When the prescribed time is less than seven days, Saturdays, Sundays, and holidays within the designated period shall be excluded in the computation . . . ." HAR § 6-61-21(e) states: "Whenever a party has the right to do some act or take some proceedings within a prescribed period after the service of a notice or other docment upon the party and the notice or document is served upon the party by mail, two days shall be added to the prescribed period." The HECO Companies were served with the Motion via mail on February 3, 2009. Seven days from February 3, 2009, excluding Saturdays, Sundays and holidays, is Thursday, February 12, 2009. Therefore, this memorandum is timely filed.

In its Order [among other things] Clarifying the Commission's Rules Regarding Computation of Time, filed October 28, 2008 in Docket No. 2008-0025 ("Clarifying Order"), the Commission ruled that:

The HECO Companies respectfully requests that HSEA's Motion be denied, as: (1) HSEA's alleged interests in this docket, which are primarily focused on time-of-use rates, do not warrant HSEA's intervention as a full party regarding the broader base of issues surrounding the implementation and roll-out of the Companies' advanced metering infrastructure ("AMI") project ("AMI Project"); (2) HSEA has not demonstrated that its alleged interests in this docket cannot be adequately represented by the Consumer Advocate, or that they differ from those of the general public; and (3) HSEA has not demonstrated a level of expertise, knowledge or experience with AMI-related issues sufficient to warrant its intervention as a full party.

Although HSEA has not requested participant status, the Companies are not opposed to HSEA being designated a participant as to the limited issue of time-of-use rates, and not an intervenor party. If HSEA is allowed to participate in this docket with respect to the time-of-use rates issue, however, then HSEA's participation should be limited to filing a statement of position, responding to any discovery requests, and responding to questions at an evidentiary hearing (if an evidentiary hearing is held). Moreover, HSEA's participation should not be permitted in any settlement agreement between the parties or to affect the schedule of proceedings or the statement of the issues, and HSEA should be required to comply with the Rules of Practice and Procedure Before the Public Utilities Commission, Title 6, Chapter 61, HAR (the "Commission's Rules of Practice and Procedure.")

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> On a going forward basis, it will not be sufficient, and considered a violation of the commission's rules, to generally represent on a certificate of service that a filing was served by hand-delivery or U.S. mail without designation as to which parties were served by hand-delivery and which were served by mail.

Id. at 35. With respect to this rule, the Certificate of Service ("COS") attached to the Motion states: "I hereby certify that a copy of the foregoing Motion to Intervene was duly served on each of the following parties via hand delivery or United States Mail, postage prepaid, as set forth below." However, although the COS specifies that two copies of the Motion were hand delivered to the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (the "Consumer Advocate"), the COS does not specify the method by which the HECO Companies were served.

## I. HSEA'S MOTION SHOULD BE DENIED

### A. STANDARD FOR INTERVENTION

Motions to intervene are governed by the Commission's Rules of Practice and Procedure, which pertain to intervention as a party as well as participation without intervention. HSEA has labeled its Motion as a "Motion for Intervention" filed pursuant to HAR § 6-61-55. Under HAR § 6-61-55(a), "A person may make an application to intervene and become a party by filing a timely written motion . . . stating the facts and reasons for the proposed intervention and the position and interest of the applicant."

The general rule with respect to intervention, as stated by the Hawaii Supreme Court, is that intervention as a party to a proceeding before the Commission "is not a matter of right but is a matter resting within the sound discretion of the Commission." In re Hawaiian Electric Co., 56 Haw. 260, 262, 535 P.2d 1102 (1975); see Re Maui Electric Co., Docket No. 7000, Decision and Order No. 11668 (June 5, 1992) at 8; Re Hawaii Electric Light Co., Docket No. 6432, Order No. 10399 (November 24, 1989) at 5-6.

The Commission exercises its discretion by determining whether or not a movant should be admitted as a party (or as a participant) in a proceeding. HAR § 6-61-55(d) specifically states: "Intervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already presented." Re Hawaii Electric Light Co., Docket No. 7259, Order No. 12893 (December 2, 1993).

In addition, the Commission needs to "secure the just, speedy and inexpensive determination of every proceeding," which is the purpose of the Commission's Rules of Practice and Procedure as stated in HAR § 6-61-1. However, the "just, speedy and inexpensive determination" of a proceeding cannot be accomplished if the Commission admits every movant as a party.

## B. HSEA HAS NOT SHOWN THAT IT SHOULD BE GRANTED INTERVENTION AS A FULL PARTY TO THE AMI DOCKET.

HSEA's Motion is primarily focused on time-of-use rates. This docket, by contrast concerns the implementation and roll-out of the HECO Companies' AMI system and includes many other issues in addition to time-of-use rates. More specifically, the relief requested in this docket involves: (1) the commitment of capital funds across three utilities for the installation of advanced, solid state meters ("AMI meters") connected by a radio frequency network ("AMI network") to a meter data management system ("MDMS") centrally located at HECO; (2) the deferral of software development costs for the MDMS with accrual of allowance for funds used during construction ("AFUDC") during the deferral period; (3) amortization of the MDMS deferred costs over a 12-year period, and inclusion of unamortized deferred costs in rate base; (4) accelerated recovery of the costs of the Companies' existing meters over different periods for each of the respective HECO Companies; (5) accelerated cost recovery of the Companies' new, AMI meters over a seven-year period; (6) AMI meter installation for customers who request them, with interim implementation of time-of-use rates for those customers; (7) various proposals for time-of-use rate schedules for each of the HECO Companies, including residential, small commercial, commercial and large power schedules; (8) recovery of incremental project costs through a surcharge mechanism; (9) approval of the Companies' agreement with their AMI vendor, Sensus Metering Systems ("Sensus"); and (10) recovery of lease expenses incurred in connection with a Sensus-owned AMI network. See the HECO Companies' Application, filed December 1, 2008 in Docket No. 2008-0303 ("Application") at 85-88. As further discussed below, HSEA has not justified its intervention as a full party on the foregoing issues, and thus the relief requested in its Motion should be denied.

### 1. HSEA's Alleged Interests in Time-of-Use Rates Do Not Warrant Intervention as a Full Party.

HAR § 6-61-55(b)(2) requires that a motion to intervene make reference to "[t]he nature and extent of the applicant's property, financial, and other interest in the pending matter[.]" In turn, HAR § 6-61-55(b)(3) requires that the motion refer to "[t]he effect of the pending order as to the applicant's interest[.]"

HSEA's alleged interest in this docket is primarily focused on time-of-use rates. In particular, HSEA speculates that: (1) "the rate differentials and time categories embodied in the time-of-use rate structure that will potentially be enacted"; and (2) "a possible decline in ROI for solar investments in the state if rates for energy consumed/delivered during the day are below those for energy consumed/delivered in the evening or nighttime", represent "[e]xamples of possible changes emerging from the pending order that could affect the financial performance of investments in PV . . . ." Motion at 5; see Motion at 4-9. This argument does not demonstrate an interest sufficient to justify HSEA's intervention in these proceedings.

#### a. Time-of-Use Rates

HSEA's allegation that the time-of-use rates proposed in this docket "could affect the financial performance of investments in PV" does not warrant HSEA's intervention with regard to the broader base of issues surrounding the implementation and roll-out of the Companies' AMI Project, as the possibility of being affected by a decision of the Commission generally does not, without more, provide grounds for intervention as a full party to a proceeding.

For example, HECO's motion to intervene in Docket No. 00-0309 (The Gas Company ("TGC") rate case) raised concerns about the potential for TGC's regulated operations to subsidize its unregulated operations (which compete with electric utility services), and the potential impact on electric sales of TGC's rates for customers with cogeneration facilities. In

opposition to HECO's motion, TGC argued, among other things, that HECO should not be granted intervention based on its "generalized competitor standing" and the Commission denied HECO's motion to intervene. See Order No. 15812, filed May 2, 2001 in Docket No. 00-0309 at 3-6.

In another docket involving an application for approval of a power purchase agreement ("PPA"), other entities sought intervention on the basis that their plans to supply power to HELCO would be jeopardized by approval of the PPA. The Commission denied the motions, noting among other things that the principal issue in the proceeding was the reasonableness of the PPA, even though the Commission recognized that the movants might be affected by its decision with respect to the PPA. See Order No. 16245, filed March 16, 1998 in Docket No. 98-0013 at 3-4.

Similarly, to the extent HSEA may be affected by the time-of-use rates proposed in this docket, HSEA does not have an interest warranting its intervention as a full party regarding the implementation and roll-out of the AMI Project. To the contrary, HSEA's allegations regarding the potential impact on it reveal a one-sided perspective on time-of-use rates. As indicated above, HSEA appears to be concerned that the time-of-use rates arising out of this docket may result in increased rates during periods when the sun is not shining. However, the purpose of time-of-use rates is not to maximize the value of photovoltaic ("PV") systems, but rather to reduce the overall cost of electricity by managing loads during periods of higher demand.[3] As

[3] See Rose & Meeusen, Reference Manual and Procedures for Implementation Of the "PURPA Standards" in the Energy Policy Act of 2005 (March 22, 2006) at 70:

> Time-of-use pricing (TOU) – price is usually broken down into two or three time blocks on typical demand levels (peak, intermediate, and off-peak). These prices are fixed for a predetermined period. Prices are highest during the highest period of demand and lowest in the lowest period of demand. Typically, price is higher than the utility's average cost during the peak time block and lower during off-peak.

noted in the AMI section of the HCEI Agreement,[4] a key role of time-of-use rates is to "facilitate substantive customer understanding and energy use management."[5]

In addition, HSEA's alleged "ability to deliver substantial savings on operating costs and obtain value for excess solar energy provided to the Hawaiian Electric Companies"[6] is not an interest reasonably pertinent to this proceeding. The sale of "excess solar energy" is an issue more appropriately addressed in other proceedings (e.g., the Feed-In Tariffs docket, Docket No. 2008-0273 to which HSEA has been admitted as a party, and the CESP[7] docket described in HCEI Agreement as a future replacement for the Companies' IRP dockets), and thus does not justify HSEA's intervention in this docket. See Order No. 14370, filed November 7, 1995 in Docket No. 95-0333 at 4 (intervention is appropriately denied when "concerns and alleged interests are more appropriate for consideration" in another docket).

In addition to being more appropriately addressed in other proceedings, the sale of "excess solar energy" is beyond the scope of the issues related to the implementation and roll out of the Companies' AMI Project. As a result, consideration in this docket of the sale of "excess solar energy" to the HECO Companies is likely to broaden the issues and delay the proceedings.

**b. Other AMI-Related Issues**

Not unlike AMI roll-outs in other states, the relief being requested by the HECO Companies in this docket is complex, and a number of complicated issues will need to be

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[4] The October 20, 2008 *Energy Agreement Among the State of Hawaii, Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, and Hawaiian Electric Companies* is referred to as the "HCEI Agreement".

[5] HCEI Agreement at 25.

[6] Motion at 6.

[7] The parties to the HCEI Agreement have agreed to replace the current integrated resource planning ("IRP") process with a Clean Energy Scenario Planning ("CESP") process, which "will provide high level guidance on long term (10-20 years) direction and an Action Plan for near term initiatives (5 years), balancing how the utility will meet its customers' expected energy needs as modified by planned energy efficiency, renewables substitution and demand response, encouraging high levels of renewable and clean energy with distributed resources, while protecting reliability at reasonable costs." HCEI Agreement at 36.

addressed. However, beyond the issue of time-of-use rates, HSEA's Motion does not address any of these issues. For example, the Motion does not address the Companies' proposed accounting and cost recovery mechanisms for the AMI Project, the cost of the project, the project schedule, the Companies' agreement with its AMI vendor, or even the technologies proposed to be installed in connection with the AMI system. Accordingly, HSEA has not demonstrated an interest in any non-time-of-use issues sufficient to warrant its intervention as a full party.

### 2. HSEA's Interests in AMI can be Adequately Represented Without HSEA's Intervention as a Full Party.

As discussed above, HSEA's alleged interest in time-of-use rates does not warrant its intervention as a full party to this docket. With respect to whatever interests HSEA may have in this docket, HSEA has not demonstrated that those interests: (1) will not be adequately represented by the Consumer Advocate; or (2) differ from those of the general public.

#### a. HSEA Has Not Demonstrated that the Consumer Advocate will Not Adequately Represent Its Interests in the AMI Project.

HAR § 6-61-55(b)(5) requires that a motion to intervene make reference to "[t]he extent to which the applicant's interest will not be represented by the existing parties[.]" With respect to this requirement, HSEA contends that its interests differ from those of the existing parties because: (1) "none of the named parties have their livelihoods tied exclusively to the sale and installation of solar photovoltaic generating equipment"; and (2) the HECO Companies have allegedly "indicated their intention to enter the PV business in some yet to be determined capacity . . . via the 'PV Host' program discussed in the [HCEI Agreement]." Motion at 7. These arguments are without merit, as the Motion does not explain why the Consumer Advocate would not be able to adequately represent HSEA's interests.

As an ex officio party to this docket, the Consumer Advocate is statutorily required to

"represent, protect, and advance the interest of all consumers, including small businesses, of utility services." HRS § 269-51 (emphasis added). Given the Consumer Advocate's resources, including the expertise, knowledge and experience it has gained as a statutorily-named party to countless utility project application proceedings, this is a task to which the Consumer Advocate is well-suited.

With respect to HSEA'a alleged concerns regarding the PV Host Program, implementation of that program would require the filing of an application with the Commission, which would in turn trigger the naming of the Consumer Advocate as an ex officio party to that new docket. To the extent HSEA has concerns regarding the PV Host Program, those concerns would be more appropriately addressed in the docket opened to evaluate the PV Host Program. (Although as discussed above, any "generalized competitor standing" that HSEA may acquire as a result of the PV Host Program would not, without more, be sufficient to warrant intervention as a full party.)

**b. HSEA has Not Demonstrated that its Alleged Interest in the AMI Project Differs from that of the General Public.**

HAR § 6-61-55(b)(8) requires that a motion to intervene make reference to "[t]he extent to which the applicant's interest in the proceeding differs from that of the general public[.]" In response to this requirement, HSEA makes two arguments.

First, HSEA argues that its member companies "have substantial expertise in issues relevant to the pending order that does not reside with the general public". This argument is irrelevant, as HSEA's "expertise" is not a "property, financial or other interest" recognized under HAR § 6-61-55(b). For example, HSEA's "expertise" would not be affected by the pending order in this docket.

Second, HSEA argues that its member companies, "via the concentration of their

economic interests in areas influenced by a potential feed-in tariff are substantially more exposed to the results of the pending order than the general public." This argument also lacks merit. As discussed above, HSEA's concerns regarding feed-in tariffs are more appropriate for consideration in other proceedings. As a result, HSEA has not demonstrated that its alleged interest in the AMI Project differs from that of the general public.

### 3. HSEA has Not Demonstrated a Level of Expertise, Knowledge and Experience with AMI-Related Issues Sufficient to Warrant its Intervention as a Full Party to this Docket.

HAR § 6-61-55(b)(6) requires that a motion to intervene make reference to "[t]he extent to which the applicant's participation can assist in the development of a sound record[.]" With respect to this requirement, HSEA argues that it will assist in the development of a sound record "regarding the appropriate form that time-of-use rates should take . . . ." Motion at 8.

Notwithstanding that as discussed above, time-of-use rates are only one aspect of the many complex issues in this docket (which include accounting, cost recovery, scheduling, contracting and technological issues related to the implementation and roll-out of the Companies' AMI system), HSEA has not demonstrated that it possesses any expertise, knowledge or experience with respect to any of these issues. For example, HSEA's contention that it "brings the experience of intervening in numerous energy related dockets"[8] provides no indication of how HSEA might contribute to the development of a sound record with respect to AMI Project-related issues such as utilizing a surcharge for recovering incremental project costs, or installing an AMI network to connect customers' AMI meters to the MDMS.

Accordingly, regardless of HSEA's alleged experience "with the customers and developers" of PV systems, HSEA has not demonstrated a level of expertise, knowledge and

[8] Motion at 8.

experience sufficient to warrant its intervention as a full party with respect to the broader array of issues associated with the AMI Project.

### C. LIMITED PARTICIPATION WITHOUT INTERVENTION.

Despite the HECO Companies' opposition to HSEA's intervention as a full party to this docket, the Companies are not opposed to HSEA being designated as a participant (and not an intervenor party) with respect to the limited issue of time-of-use rates. The Commission in the past has denied intervenor status, but granted participation status pursuant to HAR § 6-61-56, and allowed the limited participation of persons seeking intervention on specific issues when such persons' interests may not be adequately represented by existing parties, or when such persons may have special knowledge or expertise.

HAR § 6-61-56(a) provides:

> The commission may permit participation without intervention. A person or entity in whose behalf an appearance is entered in this manner is not a party to the proceeding and may participate in the proceeding only to the degree ordered by the commission. The extent to which a participant may be involved in the proceeding shall be determined in the order granting participation or in the prehearing order.

For example, the Commission addressed participation without intervention in Re Hawaii Electric Light Co., Docket No. 05-0315, Order No. 22663 (August 1, 2006) ("Order No. 22663"). In that rate case, the Rocky Mountain Institute ("RMI") filed a motion to intervene, which was denied because RMI's stated experience and expertise were not reasonably pertinent to HELCO's request for a general rate increase. The Commission nevertheless granted RMI "limited participant status, pursuant to H.A.R. § 6-61-56, restricted to the issues set forth in its Motion to Intervene, i.e., tiered rate pricing, time of use pricing, energy cost adjustment charge, net energy metering and the renewable energy and energy efficiency program for affordable homes." Order No. 22663 at 8 (emphasis added). In addition, the Commission stated that

"unless the commission decides otherwise at a future date, RMI's participation is limited to responding to any discovery requests, filing a statement of position, and responding to questions at any evidentiary hearing." Id. at 8-9.

The Commission added:

> RMI is cautioned that it must follow all applicable rules of the commission, and that the commission will reconsider RMI's participation in this docket if, at any time, the commission determines that it is unreasonably broadening the pertinent issues raised in this docket or is unduly delaying the proceeding.

Id. at 9.

In addition, in Re Hawaii Electric Light Co., Docket No. 99-0207, Order No. 17532 (February 10, 2000) ("Order No. 17532"), the Commission denied the attempt of TGC to intervene in HELCO's rate case. However, the Commission granted TGC participant status, limited to HELCO's proposed Standby Rider A.

The Commission stated:

> the commission believes that TGC's limited input as to the effects of Rider A on self-generators that use gas as a fuel source may prove useful. Therefore, consistent with HAR § 6-61-56(a), the commission will grant TGC participant status, limited to this narrow issue;[9] provided that TGC's participation does not in any manner duplicate the efforts of the Consumer Advocate in this regard. If, at any time during the commission's review, it is concluded that TGC's efforts duplicate those of the Consumer Advocate's, the commission will reconsider TGC's further participation in this docket.

Order No. 17532 at 5-6 (footnote 6 omitted). The Commission issued similar orders in Re Hawaii Electric Light Co., Docket No. 6432, Order No. 10399 (November 24, 1989);[10] and Re

[9] In a footnote, the Commission added:

> Unless ordered otherwise, TGC's participation will extend no further. We also make clear that as part of its on-going review of HELCO's request for a general rate increase, the commission, on its own motion or otherwise, may later decide to separate Rider A from this rate proceeding. If so, TGC's participation in this rate proceeding will terminate. Finally, we note that in two dockets currently pending before the commission, Hawaiian Electric Company, Inc., seeks to implement a standby charge on an interim (Docket No. 99-0105) and permanent basis (Docket No. 96-0356).

[10] In Order No. 10399, the Commission denied the amended application to intervene of Puna Community Council, Inc. ("PCC") in a HELCO rate case, but granted PCC participation status, subject to the

Maui Electric Co., Docket No. 7000, Decision and Order No. 11668 (June 5, 1992).[11]

HSEA has not requested participant status. If HSEA is allowed to participate in this docket with respect to the time-of-use rates issue, however, then HSEA should be designated a participant, and not an intervenor party. In addition, HSEA's participation should be limited to filing a statement of position, responding to any discovery requests, and responding to questions at an evidentiary hearing (if an evidentiary hearing is held). Moreover, HSEA's participation should not be permitted in any settlement agreement between the parties[12] or to affect the schedule of proceedings or the statement of the issues, and HSEA should be required to comply with the Commission's Rules of Practice and Procedure.

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conditions that (1) PCC's participant status would be "limited to the issue of the specific impact of HELCO's proposed rate structure on the ratepayers of the Puna district who are in the lower income brackets", and (2) "PCC shall participate in the proceedings and present relevant documents and materials and testimony of witnesses through the Consumer Advocate." Order No. 10399 at 5-6. PCC had sought to intervene on the basis that HELCO's proposal to increase its rates would seriously impact the ratepayers of the Puna district. PCC's only attempt to distinguish itself from the general public was the allegation that HELCO's proposed rate increase would seriously impact Puna ratepayers because most of them were in the lower income brackets and tend to use less power. PCC also argued that the Consumer Advocate would not adequately represent the interests of the Puna district ratepayers.

[11] In Decision and Order No. 11668, the Commission denied intervention, but allowed limited participation to seven low-income residents through its attorneys, the Legal Aid Society of Hawaii (collectively "Legal Aid"), in a MECO rate case. The low-income residents, through Legal Aid, sought to intervene on the alleged basis that they would not be adequately represented by the Consumer Advocate. Decision and Order No. 11668 at 3. In addition, Legal Aid informed the Commission that it could further the development of the record as it had access to certain experts and resources not available to any other party. The Consumer Advocate supported Legal Aid's involvement in the proceeding. The Commission denied Legal Aid's Motion to Intervene, and found that the Consumer Advocate would protect Legal Aid's interest. However, the Commission was impressed by Legal Aid's statement of expertise, knowledge and experience, and thus granted Legal Aid participant status limited to the issue of the specific impact of MECO's proposed rate structure and rate design on ratepayers in the lower income brackets.

[12] See, e.g., the Stipulated Regulatory Schedule attached as Exhibit A to Order No. 22884, issued September 21, 2006 in Docket No. 2006-0084, page 2, wherein the Commission limited a participant's participation by the condition that the participant's assent to any settlement agreement between all or any of the parties was not required:

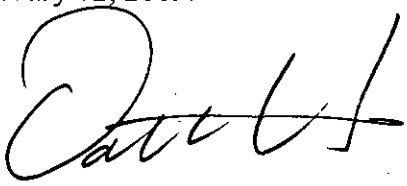
> To the extent settlement discussions occur collectively amongst the Parties, the Participant shall receive notice and have the opportunity to participate in such settlement discussions, provided that the assent of the Participant shall not be required to any settlement reached by all or any of the Parties.

## II. CONCLUSION

Based on the foregoing, the HECO Companies respectfully request that HSEA's Motion for Intervention be denied.

Although HSEA has not requested participant status, the Companies are not opposed to HSEA being designated a participant as to the limited issue of time-of-use rates, and not an intervenor party. If HSEA is allowed to participate in this docket with respect to the time-of-use rates issue, however, then HSEA's participation should be limited to filing a statement of position, responding to any discovery requests, and responding to questions at an evidentiary hearing (if an evidentiary hearing is held). Moreover, HSEA's participation should not be permitted in any settlement agreement between the parties or to affect the schedule of proceedings or the statement of the issues, and HSEA should be required to comply with the Commission's Rules of Practice and Procedure.

DATED: Honolulu, Hawaii, February 12, 2009.



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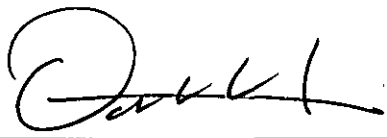
MAUI ELECTRIC COMPANY, LIMITED

## CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing HAWAIIAN ELECTRIC COMPANY, INC., HAWAII ELECTRIC LIGHT COMPANY, INC., AND MAUI ELECTRIC COMPANY, LIMITED'S MEMORANDUM IN OPPOSITION TO THE MOTION FOR INTERVENTION OF HAWAII SOLAR ENERGY ASSOCIATION, together with this CERTIFICATE OF SERVICE, as indicated below by hand delivery and/or by mailing a copy by United States mail, postage prepaid, to the following:

| Hand Delivery | U.S. Mail | |
|---|---|---|
| 2 copies | | Catherine Awakuni, Executive Director<br>Department of Commerce and Consumer Affairs<br>Division of Consumer Advocacy<br>335 Merchant Street, Room 326<br>Honolulu, Hawaii 96813 |
| | 1 copy | Mark Duda, President<br>Hawaii Solar Energy Association<br>P.O. Box 37070<br>Honolulu, HI 96837 |

DATED: Honolulu, Hawaii, February 12, 2009.



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